

REGULAR MONTHLY MEETING OF BERKELEY COUNTY COUNCIL

August 22, 2011

The **Regular Monthly Meeting of Berkeley County Council** was held on Monday, **August 22, 2011**, at 6:22 p.m., in the Assembly Room of the Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina.

PRESENT: Mr. Daniel W. Davis, County Supervisor, Chairman; Mr. Steve C. Davis, Council Member District No. 8, Vice Chairman; Mr. Phillip Farley, Council Member District No. 1; Mr. Timothy J. Callanan, Council Member District No. 2; Mr. Robert O. Call, Jr., Council Member District No. 3; Mrs. Cathy S. Davis, Council Member District No. 4; Mr. Dennis L. Fish, Council Member District No. 5; Mr. Jack H. Schurlknight, Council Member District No. 6; Mr. Caldwell Pinckney, Jr., Council Member District No. 7; Ms. Nicole Scott Ewing, County Attorney; and Ms. Catherine Windham, Interim Clerk of Council.

In accordance with the Freedom of Information Act, the electronic and print media were duly notified.

CALL TO ORDER

Chairman Daniel Davis called the meeting to order.

APPROVAL OF MINUTES

Chairman Daniel Davis asked for approval of minutes from Public Hearings: for Bills Numbered 11-20 thru 11-23, a resolution for a third amendment to the development agreement with MWV-Parks of Berkeley, and a Regular Meeting of Council held July 25, 2011; and a Special Meeting of Council held July 26, 2011.

It was moved by Council Member Schurlknight and seconded by Council Member Pinckney to **approve** the minutes as presented. The motion passed by unanimous voice vote of Council.

PUBLIC DISCUSSION – none

EXECUTIVE SESSION

Chairman Daniel Davis: “We are gonna have to have an Executive Session, but we’re gonna put that at the end of the meeting so that you folks are not delayed.”

CHAIRMAN OF COUNTY COUNCIL

THIRD READING:

“BILL NO. 11-24, AN ORDINANCE TO AUTHORIZE THE COUNTY SUPERVISOR TO EXECUTE A QUIT CLAIM DEED FROM BERKELEY COUNTY TO FOSTER CREEK VILLAGE, LLC, FOR THE PROPERTY HEREIN DESCRIBED AS A PORTION OF FOSTER CREEK ROAD.”

It was moved by Council Member Callanan and seconded by Council Member Steve Davis to **approve** Bill No. 11-24 for Third Reading. The motion passed by unanimous voice vote of Council. (A copy of Ordinance No. 11-08-23 is attached to these minutes.)

“BILL NO. 11-26, AN ORDINANCE AUTHORIZING, PURSUANT TO CHAPTER 44 OF TITLE 12, SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED, THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BETWEEN BERKELEY COUNTY, SOUTH CAROLINA, AND PEGASUS STEEL, LLC, DYNAMIC SOLUTIONS, LLC, AND ALTON PROPERTY MANAGEMENT GROUP, LLC; AND MATTERS RELATING THERETO.”

It was moved by Council Member Fish and seconded by Council Member Pinckney to **approve** Bill No. 11-26 for Third Reading. The motion passed by unanimous voice vote of Council. (A copy of Ordinance No. 11-08-24 is attached to these minutes.)

Berkeley County Council Rules allow all bills to be given Second Reading by one motion as a collective group. Any member may object to a particular bill, and it shall be separated from the collective group and handled by a separate motion.

SECOND READING:

“BILL NO. 11-27, AN ORDINANCE TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARD TO A RECLASSIFICATION OF APPROVED USES FOR TMS #184-00-00-072.”
(Ocie Wright)

It was moved by Council Member Steve Davis and seconded by Council Member Schurlknight to **approve** Bill No. 11-27 for Second Reading. The motion passed by unanimous voice vote of Council.

“BILL NO. 11-28, AN ORDINANCE ESTABLISHING A STORMWATER MANAGEMENT UTILITY FOR THE PURPOSE OF IMPLEMENTING THE BERKELEY COUNTY STORMWATER MANAGEMENT PROGRAM AND SATISFYING THE REGULATORY REQUIREMENTS OF THE STATE OF SOUTH CAROLINA NPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM REGULATED SMALL

MUNICIPAL SEPARATE STORM SEWER SYSTEMS; PLANNING, DESIGNING, CONSTRUCTING, FUNDING AND MAINTAINING STORMWATER MANAGEMENT, SEDIMENT CONTROL AND FLOOD CONTROL PROGRAMS, PROJECTS AND FACILITIES; AND REVIEWING AND APPROVING STORMWATER MANAGEMENT AND SEDIMENT CONTROL PLANS FOR LAND DISTURBING ACTIVITIES; AND PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT THEREOF.”

Chairman Daniel Davis: “Do I have a motion?”

Council Member Callanan: “Mr. Chairman, can I ask a question prior to the motion?”

Chairman Daniel Davis: “Sure.”

Council Member Callanan: “What happens, I mean, this expenditure was already approved in the budget. What happens if the stormwater fee is not passed? Does the budget – does that money just get removed from the budget?”

Chairman Daniel Davis: “Well, I don’t know that I, I don’t know that I have an answer. We would, obviously, would not have the money to fund the program. It would, it would just show that those dollars didn’t come in.”

Council Member Callanan: “Ok; so if, if this fee was not passed then the program would not move forward.”

Chairman Daniel Davis: “The program is gonna have to move forward to some extent, but to what extent, I don’t know. We do have certain requirements that we’re going to have to do, and I guess, I’d have to call on Mr. Carson, but we’re still gonna have to comply with the requirements. Go ahead, Frank.”

Mr. Frank Carson, County Engineer: “Essentially, that’s, that’s the answer. The final permit, the revised draft permit has not been issued. We don’t know how much that might change from the draft that was under review and out for public comment earlier in the year, but we’re still gonna have to be covered by the permit. I think, you all got a copy of the letter exchanging correspondence back in January, because the permit was not issued, and I drafted Mr. Davis in a letter to Ms. Ann Clark saying that we respectfully requested extension under the old permit and were basically told, ‘you must seek coverage under the new permit’. So, those requirements are still in place. It doesn’t – again, this debate is not about the permit. The debate is about how we’re gonna fund compliance with the permit.”

Council Member Callanan: “Right, well, that’s my question. Is that the – that was decided in the budget approval, because we allocated – the budget included money for, for this stormwater management.”

Mr. Carson: “Yes, Sir.”

Council Member Callanan: "So, going back to my question is if all of a sudden we didn't have a revenue source, could this be pared back?"

Mr. Carson: "Well, again, we don't have the permit in hand to know exactly the timing of the permit. When we estimated the cost, we anticipated that it was going to take awhile for the permit to get through all its appeal cycles that are probably going to happen. There was some paring back on that basis. I'm not sure, I'm not sure as far as the level of effort how much that can be pared back. And, this is only the first year of a five-year permit cycle. So, the fact that it doesn't – if it gets pared back this year and we're audited, we're back in that same boat if we comply with the permit."

Council Member Callanan: "Because, you know, and I think, you know, and it's somewhat what I think is a little misleading to say that we are approving in this vote the implementation of new stormwater standards, cause we're not. What we're doing is we're determining, in other words, that ship has sailed. Right now, we're determining how we're gonna pay for those. I mean, is that accurate, kind of what you said? I mean, the decision has already been made to apply for the permit. The budget allocated money for this. Now, we're voting on not to implement this standards are we, or are we just doing how we pay to implement those standards?"

Mr. Carson: "We're voting how to pay to implement the standards of the general permit. The permit – it's a general permit, so you're, we and the 65 other entities are applying for coverage under that permit."

Council Member Callanan: "Go ahead."

Council Member Steve Davis: "Just a point of order, I mean, Tim, I think you asked a very important question, but these issues more were in line with Committee Meeting and suggest to me that this need to be sent back to Committee, apparently, because we're not even at the point that we're even discussing this with it actually being on the floor. I don't feel comfortable about that, so that tells me that apparently, we haven't done a sufficient job in Committee. So, it would be my position that we're discussing something really inaccurately really, because we didn't get a motion or second on it. So, it would be my position to seem to suggest that we need to send it back to Committee."

Council Member Call: "Mr. Chairman?"

Chairman Daniel Davis: "Mr. Call."

Council Member Call: "Mr. Carson, is this a program that if we don't implement ourselves, somebody else is gonna do it for us, probably, more expensive and not to our liking, necessarily? Are we gonna be fined? Are we gonna be punished or sanctioned in anyway?"

Mr. Carson: "I go back to Ms. Clark's letter. We would be subject to an enforcement action. To stand here today, and if we said, we're not gonna do anything, I don't know what

they are gonna do. We're subject to enforcement action, because we're required to seek coverage under the general permit."

Council Member Call: "So, what kind of enforcement action, what kind of sanctions would that result in?"

Mr. Carson: "There are civil and criminal penalties. I believe, it's 10,000 – 20,000 a day for every day for each violation."

Council Member Call: "It don't leave us much choice."

Mr. Carson: "Again, I go back to the – and this is the example we keep bringing up is Richland County. Richland County was audited, and the thing about Richland County is it wasn't DHEC (Department Health and Environmental Control) that first came to them. I mean, this was a third party that reported non-compliance. This was a private entity that did this, and as a result, DHEC's audit, that's what brought about the four million plus original fine. So, that's an example. There are also criminal penalties, so to tell you what they're gonna do, I don't know what they're gonna do. I don't know anybody that's just said we're not gonna follow the permit, we're not gonna even apply for coverage."

Council Member Call: "When you say criminal penalties, are you talking about against the County or against a person or against – in what form would a criminal penalty take?"

Mr. Carson: "I would have to do more research. I really didn't anticipate we'd be talking about criminal penalties for not doing the program that we've tried to be in compliance with."

Council Member Call: "This thing just backed us in a box. Evidently, we're, we're faced with either civil penalties of \$20,000 a day, which if that ran for a month, we're talking about half-a-million dollars or more or some kind of criminal penalties against somebody or some entity. That just don't leave us choice, and bad as I hate to do it, and I hate these mandates. Nobody hates mandates – I think we all hate them equally, and this has come to us from somewhere else, probably, as far away as Congress. And, I resent it; I resent it with everything that's within me, and I'm prefacing that with a motion to approve the bill, and I so move."

Chairman Daniel Davis: "We have a motion. Is there a second?"

Council Member Pinckney: "I'd like to second it to move it on for further discussion, because here again as everybody stated in a round-about way, it's not that we've actually got a choice in the matter as to whether or not we're gonna implement it. I think the decision is how we're going to best pay for it, and I think, by moving it forward, then we will have that opportunity to, hopefully, come up with a funding mechanism that would be valuable to everybody involved, particularly, the citizens of Berkeley County. Another mandate coming down from Washington through the state, local government, what are we gonna do? We have to be rational about it. So, with that being said, I move, I second the motion."

It was moved by Council Member Call and seconded by Council Member Pinckney to approve Bill No. 11-28 for Second Reading.”

Council Member Callanan: “Mr. Chairman?”

Council Member Schurlknight: “Mr. Chairman?”

Chairman Daniel Davis: “Mr. Callanan.”

Council Member Callanan: “Mr. Carson, I mean, well, this really isn’t – the concern I have is, and this may be a finance question, I don’t really know, is that the fee gets turned down, the program gets implemented, gets paid for out of the General Fund, out of general operating revenues. So then, that means, which is something that I’ve been – a point I’ve been bringing up over and over again – that means for a service that covers the unincorporated areas of the County, again, most of it is going to be paid for by folks who live in the incorporated counties, incorporated areas of the County. And, to make matters even worse, those people in the incorporated areas of the County, some of us, are already paying for this in their city tax bill. So, we’re gonna be getting paid twice. So, you know, the concept, of yeah, let’s fight Washington, DC; let’s not put this fee in there, well, it doesn’t prevent the money being spent. It just means that someone else is paying for it and, quite frankly, I don’t feel like paying for it twice. I don’t feel like my constituents should have to pay for it twice and, quite frankly, if we’re forced to do it – let me back that up – if, for some reason, we choose, Council votes not to do it, I would hope that a resolution is passed that if any fine comes down, that 100 percent of the cost to pay for that fine is covered by the unincorporated, folks in the unincorporated areas, because, you know, the choice not to implement the fee to people in unincorporated areas, the people who have to pay the fine should be the, you know, should be the folks who did not implement the program, because I’ve already implemented my program in my area. I’m paying for it. I’m paying a much higher price than the fees that are being charged by the County. And so, that’s the thing that drives me crazy. I don’t want to be double taxed. I don’t want to have to subsidize other areas, because we couldn’t implement a fee.”

Council Member Schurlknight: “Mr. Chairman?”

Council Member Fish: “Mr. Chairman?”

Chairman Daniel Davis: “Mr. Schurlknight.”

Council Member Schurlknight: “Mr. Callanan, just out of curiosity...”

Council Member Callanan: “Yes.”

Council Member Schurlknight: “...roughly, how much is y’all’s stormwater fees in the City of Charleston, just out of curiosity?”

Council Member Callanan: “You have that, Frank, right? It’s like six...”

Council Member Schurlknight: "Ballpark."

Council Member Callanan: "...six – it's high."

Mr. Carson: "It'll take me just a second to find it, but I..."

Council Member Schurlknight: "Ok; while you're looking, I would like to just make a couple comments, and this is a very confusing issue, to say at least, on this stuff with the mandates and fines, compliance, and all this other stuff. And, as I understand, it's the Second Reading, so we still have another reading left on it before it becomes law. What I would like to see is maybe this whole Council to come together as a special committee to come together and just hammer this thing out, and look at it. And, if it takes us all night to work it through, I think it warrants looking at this thing real close from the amount it's going to take to fund it, where the funding is coming, the debates, if it's out the General Fund, if there's gonna be a fee for the unincorporated areas. There's good questions on both sides of the issue. There's no doubt about that, but I think, at the end of the day, no matter what, we're gonna have to come up with something to be in compliance with this mandate, because I'm not gonna sit here and knowingly put Berkeley County in a lawsuit for being in non-compliance. But, from my feelings, I don't feel real comfortable making a decision either way on any part of the issue yet. I think there's a lot of gray area, a lot of talk that needs to be talked out, and that's what I would like to make a recommendation as doing between now and next Council Meeting – the whole group, the whole Council come together as a special committee, along with staff, to sit down and hammer this baby out, just come up with something that's workable. And, I do think, in the end, it's not gonna be good, but what we do to minimize the effect. Did you come up with that, Frank?"

Mr. Carson: "To answer your question, I believe, it's \$72.00 a year in the City of Charleston."

Council Member Schurlknight: "Seventy-two? And, that might encompass other things too in that stormwater fee, more than what we're looking at doing at Berkeley County's."

Mr. Carson: "It may, but again, they've been paying it for – since 1994."

Council Member Schurlknight: "Since 1994?"

Mr. Carson: "Ok; I appreciate what you said, Mr. Schurlknight. I think that what we're hammering out, I think, it would be a good idea to narrow down what the issues would be to hammer out. If the issues are how much, it's gonna be as little as we can get by with to be in compliance. We've given you an estimate. If you collect the fee, it sits in an account, and that's the only place it goes. If it's not funded through a fee, and it's funded through the General Fund, then it comes from someplace else, because it's already budgeted. I think there's been some information presented that suggest all kinds of things..."

Council Member Schurlknight: "Right."

Mr. Carson: "...to be perfectly honest. And, if they could be put in statements to respond to, I think, that would be a good idea, but I don't know what those are. And, to be quite honest, I don't have a thick enough skin yet to not be bothered by being called a liar. I assure you I'm not lying. I assure you to have the data. The data has been presented, and I'd be glad to have a workshop, bring whoever you want that's willing to come in for the workshop. But, again, what this ordinance deals with is how to collect money to pay for the program."

Council Member Schurlknight: "Right; and Frank, I can appreciate the fact, and I know you are a straight up guy. You're the person I can always depend on. I can take what you tell me to the bank. And yeah, sometimes, you have to have thick skin. And, I think, this gives us an opportunity to answer all these questions, and then we'll move forward with whatever is best interest for all of Berkeley County. I think, some of the top things is exactly how much it's gonna cost us to operate this, how much revenue it's gonna generate, and just make sure that everybody understands this revenue is going towards this project. It's not a cash cow for anything else, and coming into compliance, I think, if we just all come together and put our heads together, and talk about it in a very informal type meeting, and then, you know, it's pretty much black and white what we've got to do. Just make dog-on sure that we're doing it the best way that we can on that."

Mr. Carson: "If I could, Ms. Ewing passed out a draft that's dated 8/22/2011, and this contains two changes that I just want to point out. On Page 5, as we said before, the ordinance is written in a way that it can be enforced in municipalities when approved by Berkeley County Council. We have received a letter from the City of Hanahan asking us to collect their fee on their behalf, and they're in the process of passing the ordinances. So, we went ahead and asked the Council to indicate that they approve the inclusion of the city upon receipt of proper authorization from the city. And, as I said, that's in the works, because they are a regulated entity much like the City of Charleston has to have a program under their permit, and they've elected to have a stormwater utility for these many years in order to fund that. The City of Hanahan is also a regulated entity, and they have to be covered under the permit, and they have to fund the program. And, we're trying to work cooperatively with them, and they would like the fee collected. On Page 6, we added one word that the utility fee may be billed and collected along with other charges, including, but not limited to other County assessments, and we added the word '*fees*', and that brings it in line with fire fees and other fees that are paid at the time building permits are issued, and that's to make that point clear. Those are the only changes in the copy that you have before you."

Council Member Schurlknight: "One quick – what's the status on Goose Creek on this whole thing. Are they..."

Mr. Carson: "Goose Creek is a – we've had discussions with them. They are not, they have not addressed how they're funding it. They've been funding it with the General Fund. They are under the same – their staff wants to push forward with a similar effort to Hanahan, but their budget cycle doesn't match ours, and I don't think their council is focused on that. Their budget corresponds with the calendar year."

Council Member Schurlknight: "So, Hanahan and Goose Creek, both, has recognized the fact this has got to be done one way or the other."

Mr. Carson: "Yes, Sir."

Council Member Schurlknight: "Good; thank you."

Council Member Steve Davis: "Mr. Chairman?"

Chairman Daniel Davis: "Mr. Davis; well, I think, Mr. Fish."

Council Member Fish: "Yeah."

Council Member Steve Davis: "Go ahead, Mr. Fish."

Council Member Fish: "I'm sorry; yeah; Number One, you're exactly right. Mr. Callanan brought it up. In this year's budget, y'all approved \$318,000. I understand, in the past we've been spending \$65,000 - \$75,000 a year for administrative fees. Now, if they renew that permit, what is the cost administratively, versus moving it out to a different fee. If \$318,000 is already in the budget, if that permit's approved, there shouldn't be more than sufficient funds there to carry that out without doing that. Is that a correct statement? How big is big? How much more do you have to do other than administrative?"

Mr. Carson: "I'm not sure about the administrative."

Council Member Fish: "Well, it points now, excuse me, administratively is what..."

Mr. Carson: "We're in compliance with the old permit. Whatever correspondence, whatever correspondence DHEC gave, we have to submit an annual report. They review the annual reports. That's all under the old permit, and we're in compliance with the permit. That's absolutely right. There's a new permit with far different requirements. Under the old permit, there's no screening, there's no monitoring there's no reporting the results of those. It's a far different permit despite what you may have heard. So, what we have in that budget, the 300,000 plus, is what we were estimating for the budget year, assuming that it's gonna be awhile before that second round permit is passed. So, the figure we gave for a twelve-month period may seem higher than that. So, I'm not sure about the administrative part. What we've charged in the past has been primarily the fees that we pay to participate in the Carolina Clear Program, the permit fee to DHEC, the fees for our consultant and some of the education and training that we have to do. What's not included in that are payroll costs. We were able to do that, because development was down. We had staff that could take care of it, and we didn't charge labor costs against those. So, if you put what the real cost is, it's not close to, you know, 65 - \$75,000, because it doesn't include the labor costs. So, those are where some of the differences are."

Council Member Fish: "But, we didn't approve any headcount increase for this either."

Mr. Carson: "Again, there's one, there's a position, there's a position, because there's at least a man-year that has to be dedicated, and there will be others that will be charged to it, but that was the rationale for that other position."

Council Member Fish: "Ok."

Council Member Farley: "What kind of certification would that have to have?"

Mr. Carson: "Which certification?"

Council Member Farley: "Position."

Mr. Carson: "It's an engineer position, and typically, there are different certifications required for inspectors and plan reviewers, but someone who has a PE or an engineering graduate, typically, or working under a PE doesn't have to have those certifications. So, it's at an Engineer II level though."

Chairman Daniel Davis: "Mr. Davis, you..."

Council Member Steve Davis: "Thank you; let's see if things we can agree on. We can agree that this stormwater management utility fee that's been up for Second Reading will not, until recently, affect Hanahan?"

Mr. Carson: "No, Sir; Hanahan has also been paying out of their General Fund up until now."

Council Member Steve Davis: "Ok; Goose Creek?"

Mr. Carson: "General Fund."

Council Member Steve Davis: "Moncks Corner?"

Mr. Carson: "Moncks Corner is not covered. They're not a regulated entity under the permits."

Council Member Steve Davis: "St. Stephens?"

Mr. Carson: "Not regulated."

Council Member Steve Davis: "Jamestown?"

Mr. Carson: "Not regulated."

Council Member Steve Davis: "Town of Bonneau?"

Mr. Carson: "Not regulated."

Council Member Steve Davis: "So, folks in these areas that own property and create stormwater run-off will not have to pay this fee?"

Mr. Carson: "The people in those areas are not covered under this ordinance."

Council Member Steve Davis: "That's it, they would not have to pay this fee?"

Mr. Carson: "That's correct."

Council Member Steve Davis: "Ok; now, Mr. Fish told you that you've got \$318,000, but you say that's insufficient, so the new things you project under this stormwater utility is they are gonna have to do screening?"

Mr. Carson: "Under the permit, yes."

Council Member Steve Davis: "And, envision what kind of screening we are talking about, and where would it occur?"

Mr. Carson: "Before you do the screening, you have to come up with a program to identify the outfalls and the receiving waters. Those have to be inventoried; they have to be mapped. You have to come up with a program of what your priority areas are, and the intent of it is to identify and eliminate illicit discharges. So, you do all of that work."

Council Member Steve Davis: "And, you know, if you take the bill number, it says, '*permit for stormwater discharge from regulated small municipal separate*' stormwater systems, isn't that right?"

Mr. Carson: "Yes."

Council Member Steve Davis: "When I think about small municipal separate stormwater system, that don't suggest the Town of St. Stephen, the Town of Bonneau, the Town of Jamestown, or that's not what we're talking about, that's a different type of municipal?"

Mr. Carson: "It all goes back to the way it's identified and in the regulation by the census data."

Council Member Steve Davis: "Yeah, but I'm talking about here, this is our ordinance, and we say, '*regulated small municipal separate*'..."

Mr. Carson: "That's the terminology used in the permit, so we're repeating the terminology as defined in the permits."

Council Member Steve Davis: "Yeah, but is it applicable to the unincorporated area? Just because you give it that definition, that don't mean it is, in fact, what you say it is, because I'm trying to think what small municipal separate storm sewer system in the unincorporated area

other than someone's sewer. Now, I'll step a first when you talk about plans for land disturbing activities, I could see, you probably got some activities out in the rural part of the County. You can have all kind of activities, so that's part of what you'll be screening also?"

Mr. Carson: "Land disturbing activities are covered under another section, which is the erosion and sediment control part of it, with plan review and inspections on new construction."

Council Member Steve Davis: "Just like one of the concerned citizens said that some aspect of this stormwater compliance is being addressed by other things that we've put forth in Berkeley County."

Mr. Carson: "You passed an ordinance when we first – you passed a stormwater ordinance when we were under the first permit cycle. That covered some of those items, and parts of the program we've been operating under, and you charge a fee for those. You know, we have inspection fees, we have plan review fees that cover those activities. There's separate sections under the permit that address different things. They range from the public education and outreach, the construction phase of it, the illicit discharges, the good housekeeping – those are all – they all have their own set of requirements for them."

Council Member Steve Davis: "Mr. Carson, do you think it's fair, though, that citizens who live in the unincorporated area should finance, put this sum of money together that you need to create you a utility, because that's what it comes down to? You think that's fundamentally fair that if I live in the Town of Bonneau, I need not be concerned about a \$36 fee, but if I live less than 20 yards on the outskirts of the Town of Bonneau, it's a \$36 fee for me?"

Mr. Carson: "Well, that goes to – I think, that goes to legal questions that I can't answer."

Council Member Steve Davis: "That don't go to legal questions..."

Mr. Carson: "They're a municipality."

Council Member Steve Davis: "That goes to we, as a County Council, putting a hardship on citizens in the unincorporated area, where there's less asphalt in relationship to say a town, like the Town of Moncks Corner. And, I'm not trying to – but, don't you think that's patently unfair?"

Mr. Carson: "It's – you're talking about taxes, and people are always gonna say it's unfair. You know, for years – I have four children. For years, they went to public school, and so, I thank the person who didn't have any children who was paying taxes for public schools. They did a benefit to me, even though they didn't have those children. Today, my kids are in college or they're grown. So, I'm still paying those taxes, and I may say that's unfair..."

Council Member Steve Davis: "Yeah, but my..."

Mr. Carson: "This is a way – this is a way to collect money for something we have to do. If somebody has a better way; this is a suggestion for how to pay for it."

Council Member Steve Davis: "Yeah, but stormwater management talk about – the Town of Moncks Corner, with this population, is not even included."

Mr. Carson: "That's the law. That's not part..."

Council Member Steve Davis: "And, when you think about the aspects of Goose Creek – I could see why Goose Creek City leaders don't want to get engaged with this. Why would you when you are going to tax the citizens out in the unincorporated area to put your utility together in an area that don't even have the population in relationship to, let's say, a Hanahan or Goose Creek, where all the asphalt really exists."

Mr. Carson: "This is to fund the program for those areas. Goose Creek and Hanahan have to comply with the permit, and they have to fund it some way, so they are gonna have to pay for a program, just like the City of Charleston has to pay for a program."

Council Member Steve Davis: "But, I can understand a city. Did the City of Charleston tax the people in the unincorporated area?"

Mr. Carson: "The City of Charleston..."

Chairman Daniel Davis: "They wouldn't have any way to do that."

Council Member Steve Davis: "Well, that's my whole point to some extent. But the county – did the county tax the unincorporated area?"

Mr. Carson: "Yes."

Council Member Callanan: "Yes."

Chairman Daniel Davis: "And, you gotta remember that Goose Creek – you don't have the imbalance in Goose Creek and Hanahan if they fund the program with, with ad valorem taxes, because as Mr. Callanan pointed out on Daniel Island, that's because it's a multi-jurisdictional issue."

Council Member Steve Davis: "Yeah; I understand that point."

Chairman Daniel Davis: "But Hanahan and Goose Creek could very well continue to fund it with taxes and..."

Council Member Steve Davis: "But, we've been funding – I thought that we had been paying in the first phase from the General Fund."

Chairman Daniel Davis: "We have."

Council Member Steve Davis: "Well, so folks out in the unincorporated area were paying taxes to contribute to that anyway at that particular point."

Chairman Daniel Davis: "They were, and as well, the folks in the incorporated area."

Council Member Steve Davis: "Yeah."

Chairman Daniel Davis: "We can have a workshop. Why don't we schedule a workshop and anybody, as Mr. Carson asked, if you have some pointed questions that you can give to him, so he can be prepared to answer them, and we'll go from there. We'll schedule that. Anyone who can participate can."

Council Member Call: "Mr. Chairman?"

Chairman Daniel Davis: "Mr. Call."

Council Member Call: "If I may, and I understand Mr. Callanan's position very well. I'm in a municipality; several of us, probably, more of us than not. I'm a little ambivalent. This is for Second Reading, and of course, we'll have another chance at it, but what would happen, Mr. Carson, if we put this off for tonight? What kind of timeframe are we under?"

Mr. Carson: "The real constraint is getting it on the tax bill."

Council Member Call: "And that is about September?"

Chairman Daniel Davis: "Well, we need to have Second Reading tonight to keep it on pace so we can get that."

Council Member Call: "But, if we have a Second Reading tonight, then do I have some assurance if I leave my motion there that we will have a workshop to discuss this between now and the Third Reading?"

Chairman Daniel Davis: "We will."

Council Member Call: "Ok, I'll..."

Council Member Steve Davis: "Mr. Chairman, I think, as a suggestion, y'all need to change the name from Berkeley County Stormwater Management Program, and call it Berkeley County Unincorporated Stormwater Management Program."

Council Member Call: "I agree with you, Mr. Davis."

Council Member Steve Davis: "Don't call it Berkeley County, because it's not Berkeley County."

The motion passed by majority voice vote of Council. Council Member Cathy Davis, Council Member Steve Davis and Council Member Fish voted, “Nay.”

Bills for First Reading are not discussed or voted upon. The bills are read into the record by title only and, thereafter, sent to the proper Committee for further consideration.

FIRST READING:

“BILL NO. 11-30, AN ORDINANCE TO MODIFY THE OFFICIAL ZONING AND DEVELOPMENT STANDARDS MAP OF BERKELEY COUNTY, SOUTH CAROLINA, IN REGARD TO A RECLASSIFICATION OF APPROVED USES FOR TMS #036-00-03-063.”
(Rob Fye for Farmers & Merchants Bank)

RESOLUTIONS:

“RESOLUTION PROVIDING FOR THE TRANSFER OF FUNDS IN THE 2010-2011 BERKELEY COUNTY BUDGET FOR COUNTY PURPOSES OTHER THAN AS SPECIFIED IN SAID BUDGET.”

Ms. Nicole Scott Ewing, County Attorney: “That’s not needed, Mr. Chairman.”

“AN INDUCEMENT RESOLUTION IDENTIFYING PROJECT FALCON’S MANUFACTURING FACILITY AS ECONOMIC DEVELOPMENT PROPERTY, PURSUANT TO THE FEE-IN-LIEU OF TAX SIMPLIFICATION ACT, WHEREBY, THE COUNTY WILL ENTER INTO A FEE AGREEMENT TO PERMIT, UNDER CERTAIN CONDITIONS, FEES IN LIEU OF AD VALOREM PROPERTY TAXES AND SPECIAL SOURCE REVENUE CREDITS FOR THE PROJECT TO LOCATE ITS MANUFACTURING FACILITY WITHIN BERKELEY COUNTY, SOUTH CAROLINA.”

It was moved by Council Member Schurlknight and seconded by Council Member Fish to **approve** the resolution identifying Project Falcon’s Manufacturing Facility as economic development property, whereby the County will enter into a fee agreement with the facility. The motion passed by unanimous voice vote of Council. (A copy of Resolution No. 11-25 is attached to these minutes.)

“RESOLUTION IN SUPPORT OF AN AMENDMENT TO THE SOUTH CAROLINA STATEWIDE MULTIMODAL TRANSPORTATION PLAN, AND OTHER MATTERS RELATED THERETO.”

It was moved by Council Member Schurlknight and seconded by Council Member Fish to **approve** the resolution supporting an amendment to the SC Statewide Multimodal Transportation Plan. The motion passed by unanimous voice vote of Council. (A copy of Resolution No. 11-26 is attached to these minutes.)

REPORTS FROM STANDING COMMITTEES:

Committee on Finance

Council Member, Mr. Jack H. Schurlknight, Chairman

Chairman Schurlknight: “Mr. Chairman, the Committee on Finance met earlier this night, and all of the matters have been addressed on this night’s agenda.”

(That concluded Chairman Schurlknight’s report.)

Committee on Land Use

Council Member, Mr. Phillip Farley, Chairman

Chairman Farley: “Mr. Chairman, the Land Use Committee met on August 8th, and all the matters have been addressed on that night’s agenda.”

(That concluded Chairman Farley’s report.)

Committee on Public Works and Purchasing

Council Member, Mr. Caldwell Pinckney, Jr., Chairman

Chairman Pinckney: “Mr. Chairman, the Committee on Public Works and Purchasing met on August 8th.”

a. Red Bank Road Sewer Rehabilitation Construction Contract

Chairman Pinckney: “On recommendation of the Committee, I move to **approve** the award of the construction contract to Reynolds Inliner, LLC, in the amount of \$1,397,495.00.” *(No second required.)*

The motion passed by unanimous voice vote of Council.

b. Sole Source Purchase of Landfill Closure Turf

Chairman Pinckney: “Also, on recommendation of the Committee, I move to **approve** the sole source purchase of a Landfill closure turf to Closure Turf, LLC, in the amount of \$2,230,800.” *(No second required.)*

The motion passed by unanimous voice vote of Council.

c. Cabling Infrastructure

Chairman Pinckney: “Also, on recommendation of the Committee, I move to **award** indefinite delivery contracts for cabling infrastructure to Meridian

Automation and Communication, Corporation, and Universal Netcom.” (No second required.)

The motion passed by unanimous voice vote of Council.

d. Sole Source Purchase of Live Scan Fingerprint System Upgrade

Chairman Pinckney: “On recommendation of the Committee, I move to **approve** the sole source purchase of live scan fingerprint system upgrade from Data Works Plus, LLC, in the amount of \$28,187.00.” (No second required.)

Chairman Daniel Davis: “We have a motion, any discussion?”

Ms. Kace Smith, Finance Director and Deputy Supervisor: “Mr. Chairman?”

Chairman Daniel Davis: “Yes.”

Ms. Smith: “I just wanted to point out to you that this item was approved in the Capital Improvement Fund for the 2011-2012. The amount that was approved was \$28,187.00 at the last Council Committee Meeting. **The Chief mentioned that this cost was \$28,837.00.**”

Chairman Daniel Davis: “Ok.”

Chairman Pinckney: “Ok.”

The motion passed by unanimous voice vote of Council.

(That concluded Chairman Pinckney’s report.)

**Committee on Justice and Public Safety
Council Member, Steve C. Davis, Chairman**

No report.

**Committee on Water and Sanitation
Council Member, Mr. Robert O. Call, Jr., Chairman**

Chairman Call: “Mr. Chairman, the Committee on Water and Sanitation met on August 8th.”

Contract Extension for Yard Waste Grinding

Chairman Call: “On recommendation of the Committee, I move to **approve** the contract extension for yard waste grinding to DS Utilities, in the amount of \$6.50 a ton.” (No second required.)

The motion passed by unanimous voice vote of Council.

(That concluded Chairman Call's report.)

Committee on Planning and Development
Council Member, Mrs. Cathy S. Davis, Chairman

No report.

Committee on Community Services
Council Member, Mr. Timothy J. Callanan, Chairman

No report.

Committee on Human Services
Council Member, Mr. Dennis L. Fish, Chairman

No report.

Chairman Daniel Davis: "At this time..."

Council Member Callanan: "Mr. Chairman? Can I just change a vote on Item No. 3, under Resolutions? I just want to change my vote to a 'Nay'. I was – I didn't realize, I was looking at the wrong item on the agenda. Just for the record? Yeah; a resolution in support of an amendment to South Carolina Statewide Multimodal Transportation Plan? I change my vote to a 'Nay'. Thank you."

Chairman Daniel Davis: "Alright."

Ms. Ewing: "Mr. Chairman, I believe Robert's Rules calls that once the decision has been made, that a member cannot change his vote. I will research that, and get back with you, Mr. Callanan, to make sure."

Council Member Callanan: "If you are incorrect and you can bring it up. I mean, if you are correct, then you can change it."

Ms. Ewing: "I'll, I'll let, I'll let you personally know either way."

Council Member Callanan: "But, as of now, then it will stand as changed, correct?"

Ms. Ewing: "That would be up to the Clerk of Council and the Chairman."

Chairman Daniel Davis: "It's noted in the record, and if she's not correct, then it'll be changed."

Council Member Callanan: "Thank you. That's all I was asking."

NOMINATIONS FOR MEMBERSHIP ON BOARDS, COMMISSIONS, ETC.

Chairman Daniel Davis: "Alright, we have an opportunity for nominations – boards and advisory committees. Does anyone have any recommendations?"

There were no recommendations for nominations.

CORRESPONDENCE – none

UNFINISHED BUSINESS

Chairman Daniel Davis: "I'd also like to discuss having another workshop on redistricting. We need to move that process along. You've all gotten the updated maps after the visit from Mr. Bowers. So, we will be planning a meeting on that, a workshop on that."

Council Member Fish: "Mr. Chairman, I understand that that map is available to the public in your conference room or where's the big, large map available at?"

Chairman Daniel Davis: "I don't – I think, back here."

Council Member Fish: "We did make it available to the public?"

Chairman Daniel Davis: "No, I don't think so – it's a – because it's a draft and still in parts. As soon as we get a blessing on the map then, of course, we'll make it public."

Council Member Fish: "Ok; thank you."

Council Member Call: "Mr. Chairman?"

Chairman Daniel Davis: "Mr. Call."

Council Member Call: "Do we need to act on these Library Board nominations? Did you see those?"

Chairman Daniel Davis: "I'm not sure – oh, we do, ok. I didn't see them. Ok, well then, I'll entertain a motion. The recommendations – these are three recommendations. You had three seats to fill?"

Ms. Donna Osborne, Library Director: [Inaudible]

Chairman Daniel Davis: “Re-appointments, ok. I’ll entertain a motion to re-appoint Dr. Patricia Richards, Ms. Sandra Decker and Ms. Cassandra Rogers.”

It was moved by Council Member Fish and seconded by Council Member Pinckney to nominate Dr. Patricia Richards, Ms. Sandra Decker and Ms. Cassandra Rogers as re-appointments to serve on Berkeley County’s Library Board. The motion passed by unanimous voice vote of Council.

NEW BUSINESS – none

ANNOUNCEMENTS

The September 2011 Regular Meeting of Berkeley County Council will be held on Monday, September 26, 2011, immediately following Public Hearings and any scheduled Committee Meetings at 6:00 p.m., in the Assembly Room of the Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, SC.

EXECUTIVE SESSION

It was moved by Council Member Callanan and seconded by Council Member Schurlknight to enter into Executive Session to discuss matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by the County; or discussions of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property; the receipt of legal advice where the legal advice relates to a pending, threatened or potential claim, or other matters covered by the attorney/client privilege; settlement of legal claim; or the position of the County in other adversarial situations involving the assertion against the County of a claim. The motion passed by unanimous voice vote of the Committee.”

Council entered into Executive Session at 7:09 p.m., and returned to its Regular Session at 7:32 p.m.

Ms. Ewing: “Mr. Chairman, Council went into Executive Session for the reasons stated in the motion. No action was taken.”

Chairman Daniel Davis: “Thank you, Madame Attorney. I’ll entertain a motion to adjourn.”

ADJOURNMENT

It was moved by Council Member Call and seconded by Council Member Schurlknight to **adjourn** the Regular Meeting of Council. The motion passed by unanimous voice vote of Council.

Meeting adjourned at 7:33 p.m., for the execution of documents by Council.

PUBLIC DISCUSSION – none

S/Catherine Windham
Interim Clerk of Council

September 26, 2011
Date Approved

THE MONTHLY MEETING OF BERKELEY COUNTY COUNCIL is scheduled to be held on **MONDAY, AUGUST 22, 2011**, following the meetings of any scheduled Committees at **6:03 p.m.**, in the **ASSEMBLY ROOM, BERKELEY COUNTY ADMINISTRATION BUILDING, 1003 HIGHWAY 52, MONCK'S CORNER, S. C.**

CALL TO ORDER

APPROVAL OF MINUTES:

Public Hearings	July 25, 2011
Regular Council Meeting	July 25, 2011
Special Council Meeting	July 26, 2011

PUBLIC DISCUSSION - Requests to be heard must be made prior to Call to Order and comments must be limited to Agenda items only.

COMMENTS ON ANY PUBLIC DISCUSSION ITEM WILL BE LIMITED TO THREE (3) MINUTES PER SPEAKER. (A TOTAL OF 30 MINUTES WILL BE ALLOTTED FOR THIS PUBLIC DISCUSSION PERIOD.)

EXECUTIVE SESSION to discuss matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries, or other businesses in the area served by the County; or discussions of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claim, or the position of the County in other adversary situations involving the assertion against the County of a claim.

CHAIRMAN OF COUNTY COUNCIL

PRESENTATION: TO COMMEND THE SERVICE OF BARBARA B. AUSTIN AS CLERK TO COUNCIL AND TO EXPRESS APPRECIATION FOR HER SERVICE TO BERKELEY COUNTY.

THIRD READING:

1. **Bill No. 11-24**, an **ordinance** to authorize the County Supervisor to execute a **quit claim deed** from Berkeley County to **Foster Creek Village, LLC**, for the property herein described as a portion of Foster Creek Road.
[Recommended by Committee on Land Use]

2. **Bill No. 11-26**, an **ordinance** authorizing pursuant to Chapter 44 of Title 12, South Carolina Code of Laws, 1976, as amended, the execution and delivery of a fee agreement between Berkeley County, South Carolina and **Pegasus Steel, LLC, Dynamic Solutions, LLC** and **Alton Property Management Group, LLC**; and matters relating thereto.
[Recommended by Committee on Finance]

SECOND READING:

1. **Bill No. 11-27**, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Ocie Wright**, located on 313 Glenridge Lane, Cordesville, **TMS #184-00-00-072** (1.42 +/- Acres) from **R15, Preservation Residential District to Flex-1, Agricultural District**. Council District No. 8.
[Recommended by Committee on Land Use]
2. **Bill No. 11-28**, an ordinance establishing a **Stormwater Management Utility** for the purpose of implementing the **Berkeley County Stormwater Management Program** and satisfying the regulatory requirements of the State of South Carolina NPDES general permit for stormwater discharges from regulated small municipal separate storm sewer systems; planning, designing, constructing, funding, and maintaining stormwater management, sediment control, and flood control programs, projects and facilities; and reviewing and approving stormwater management and sediment control plans for land disturbing activities; and providing for the administration and enforcement thereof.
[Recommended by Committee on Public Works & Purchasing]

FIRST READING:

1. **Bill No. 11-30**, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Rob Fye for Farmers & Merchants Bank**, located at 3728 Byrnes Drive, St. Stephen, **TMS #036-00-03-063** (2.26 +/- Acres) from **GC, General Commercial District to LI, Light Industrial District**. Council District 8.
[Recommended by Committee on Land Use]

RESOLUTIONS:

1. **RESOLUTION** providing for the **Transfer of Funds** in the **2010-2011 Berkeley County Budget** for County purposes other than as specified in said budget.
[Recommended by Committee on Finance]
2. An **Inducement Resolution** identifying **Project Falcon's** Manufacturing Facility as Economic Development Property pursuant to the Fee In Lieu of Tax Simplification Act whereby the county will enter into a Fee Agreement to permit, under certain conditions,

Fees in Lieu of Ad Valorem property taxes and special source revenue credits for the project to locate its manufacturing facility within Berkeley County, South Carolina.
[Recommended by Committee on Finance]

3. **A Resolution** in support of an amendment to the **South Carolina Statewide Multimodal Transportation Plan** and other matters related thereto.
[Recommended by Committee on Finance]

REPORTS FROM STANDING COMMITTEES:

1. **Committee on Finance.**
Council Member, Mr. Jack H. Schurlknight, Chairman.
2. **Committee on Land Use.**
Council Member, Mr. Phillip Farley, Chairman.
3. **Committee on Public Works and Purchasing.**
Council Member, Mr. Caldwell Pinckney, Jr., Chairman.
 - a. Red Bank Road Sewer Rehabilitation, Construction Contract
 - b. Sole Source Purchase of Landfill Closure Turf
 - c. Cabling Infrastructure
 - d. Sole Source Purchase of Live Scan Fingerprint System Upgrade
4. **Committee on Justice and Public Safety.**
Council Member, Mr. Steve C. Davis, Chairman.
5. **Committee on Water and Sanitation.**
Council Member, Mr. Robert O. Call, Jr., Chairman.
 - a. Contract extension for Yard Waste Grinding.
6. **Committee on Planning and Development.**
Council Member, Mrs. Cathy S. Davis, Chairman.
7. **Committee on Community Services.**
Council Member, Mr. Timothy J. Callanan, Chairman.
8. **Committee on Human Services.**
Council Member, Mr. Dennis Fish, Chairman.

NOMINATIONS FOR MEMBERSHIP ON BOARDS, COMMISSIONS, ETC.

AERONAUTICS COMMISSION

CHARLESTON REGIONAL DEVELOPMENT ALLIANCE

CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS

DEVON FOREST

LIBRARY BOARD

Dr. Patricia H. Richards

Mrs. Sandra Decker

Ms. Cassandra Rogers

MENTAL HEALTH BOARD

SANGAREE SPECIAL TAX DISTRICT

TAX ASSESSMENT REVIEW BOARD

ZONING APPEALS BOARD

CORRESPONDENCE

UNFINISHED BUSINESS

NEW BUSINESS

ANNOUNCEMENTS

THE SEPTEMBER 2011, REGULAR MEETING OF BERKELEY COUNTY COUNCIL, WILL BE HELD ON MONDAY SEPTEMBER 26, 2011, IMMEDIATELY FOLLOWING PUBLIC HEARINGS AND ANY SCHEDULED COMMITTEE MEETINGS AT 6:00 PM, IN THE ASSEMBLY ROOM OF THE BERKELEY COUNTY ADMINISTRATION BUILDING, 1003 HIGHWAY 52, MONCKS CORNER, S. C.

ADJOURNMENT

EXECUTION OF DOCUMENTS BY COUNCIL

PUBLIC DISCUSSION

COMMENTS ON ANY PUBLIC DISCUSSION ITEM WILL BE LIMITED TO THREE (3) MINUTES AND MAY BE ON ANY MATTER.

August 17, 2011
S/Catherine R. Windham
Interim Clerk of County Council